

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois-American Water Company	:	
	:	
Application for Certificate of Public	:	
Convenience and Necessity to	:	
Provide Water and/or Sanitary	:	04-0522
Sewer Service to Parcels in Cook,	:	
Kendall, DuPage and Will Counties,	:	
Illinois Pursuant to Section 8-406 of	:	
the Public Utilities Act.	:	
	:	

ORDER

By the Commission:

In this proceeding, Illinois-American Water Company ("Illinois-American," "Company" or "IAWC") filed, with the Illinois Commerce Commission ("Commission"), a verified application seeking Certificates of Public Convenience and Necessity ("Certificates") to provide water and/or sanitary sewer service to various areas in Cook, Kendall, DuPage and Will Counties, Illinois, pursuant to Section 8-406 of the Illinois Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq. Thereafter, Illinois-American filed an Amended Application.

Pursuant to due notice, hearings were held before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield, Illinois. Appearances were entered for the Company and the Commission Staff ("Staff") by their respective counsel. Municipalities located within 1½ miles of the areas in question were provided a copy of the Application and Amended Application in accordance with 83 Ill. Adm. Code 200.150(b), and were served notice of the initial hearing. Other than IAWC and Staff, no appearances were entered at the hearings and no written entries of appearance or intervening petitions were filed.

IAWC presented the testimony of Bob Khan, Manager of Project Delivery and Developer Services for the Company's Chicago-Metro Division, and Edward J. Grubb, Rates and Regulation Manager and Assistant Treasurer of the Company. William D. Marr and Phil A. Hardas provided testimony on behalf of Staff. At the close of the hearings, the record was marked "Heard and Taken." Thereafter, Illinois-American filed a draft order.

Background; Relief Sought

Illinois-American is a corporation organized under the laws of the State of Illinois and a public utility within the meaning of Section 3-105 of the Act. Its principal office is in the City of Belleville, Illinois. Illinois-American is a subsidiary of American Water Works Company. The Company is engaged in the business of furnishing water and waste water service to the public in various areas of Illinois, including a number of communities in Cook, Kendall, DuPage, and Will Counties.

In this proceeding, Illinois-American requests the issuance of Certificates of Public Convenience and Necessity authorizing, among other things, the provision of water and/or sewer service to the public in various additional areas that are contiguous to or surrounded by eight existing service areas in Cook, Kendall, DuPage and Will Counties, Illinois pursuant to Section 8-406 of the Public Utilities Act.

Applicable Statutory Authority

Section 8-406 of the Act governs the issuance of a Certificate in this matter. Specifically, Section 8-406(b) of the Act provides:

No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or any extension or alteration thereof or in addition thereto, unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction. Whenever after a hearing the Commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto, it shall have the power to issue certificates of public convenience and necessity. The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

Nature and Purpose of Proposed Certification; Company Position

Each of the proposed areas of certification is contiguous to or surrounded by, and will be added to, one of eight existing water and/or sewer service areas in Cook, Kendall, DuPage and Will Counties. The eight existing service areas are identified as the Chicago Suburban, Southwest Suburban, Liberty Ridge, Valley Marina, Santa Fe, Valley View,

West Suburban and DuPage districts. Each proposed area of certification, and the districts to which they will be added, are identified in IAWC Exhibit BK 2.2. That exhibit also specifies the type of service, in terms of water and/or sewer, for which certification is sought. The proposed areas are shown in maps for each district identified as Exhibit A to the amended application. Each proposed area is legally described in a 14-page document identified as IAWC Exhibit BK 2.1.

According to Illinois-American, it is seeking certification of the proposed areas in order to accommodate the requests of developers or municipalities and to meet the needs of potential customers. The developers for each project are listed on IAWC Exhibit BK 2.6. Mr. Khan stated that no other public water and/or sanitary sewer utility presently serves the areas for which certification is sought.

Mr. Kahn provided information intended to show that Illinois-American's water and sanitary sewer systems have sufficient capacity to meet the estimated demand for the identified developments. (IAWC Ex. BK 2.4) He also provided cost estimates for extending facilities into the proposed areas. (IAWC Ex. BK 2.3) With the exception of one area where well water will be used as the source of supply, the water to be supplied to the proposed areas, by means of interconnections with various parties, is from Lake Michigan.

Under Illinois-American's proposal, the Rates, Rules, Regulations, and Conditions of Service contained in the currently effective tariffs for the Chicago-Metro Division will be applicable to customers located in the areas for which certification is sought. The Company also indicated that in this docket, it is not seeking to implement new surcharges or to revise any existing surcharges. (Tr. 47)

IAWC witness Mr. Grubb performed an analysis intended to show the incremental revenue requirement associated with each of the proposed areas of certification. In these analyses, estimated revenues from new customers, net of refunds, were compared to costs incurred in providing service, including expenses and return on rate base. (IAWC Ex. EJJ 1.2) These analyses purport to show that the estimated revenues will be sufficient to cover the costs the serving the new areas. Mr. Grubb stated that the cost of extending the facilities is not reflected in rate base, except to reflect refunds, because of contributions from developers. (Tr. 28)

With regard to the criteria in Section 8-406(b) of the Act, Illinois-American contends that its construction, operation and maintenance of water and/or sanitary sewer facilities as set forth in this proceeding are necessary to provide adequate, reliable and efficient water and/or sanitary sewer service to those customers located and to be located within the areas for which certification is sought. Illinois-American also asserts that the construction of the water and/or sanitary sewer facilities constitutes the least-cost means of satisfying the service needs of customers.

Illinois-American claims it is capable of efficiently managing and supervising the construction necessary to serve the proposed areas, and of financing the proposed

construction without significant adverse financial consequences to Illinois-American or its customers. Mr. Khan stated that Illinois-American is one of the largest investor-owned water and wastewater public utilities in the State of Illinois, and has access to funds through its parent company, American Water Works Company. (IAWC Ex. BK-1.0 at 6)

Mr. Khan testified that Illinois-American has entered into, or is in the process of entering into, various water and/or sanitary sewer service agreements with the property developers and/or owners to serve the parcels for which certification is requested.

With respect to the requirements of 83 Ill. Adm. Code 300, "Guidelines for Right-of-Way Acquisitions," Illinois-American indicated that it will not be seeking easements from any private landowners other than the developers who are requesting the extension of water or sewer facilities or applicants who are requesting water or sewer service through those facilities.

Staff Position

Phil A. Hardas, a Senior Financial Analyst in the Commission's Financial Analysis Division, stated that in his view, the estimated cost of construction to the Company is diminutive in relation to the Company's financial resources. In his opinion, the proposed transaction meets the requirements of Section 8-406(b)(3) of the Act. Therefore, Mr. Hardas recommended the Commission find that Illinois-American is capable of financing the proposed construction without significant adverse financial consequences for the Company or its customers. (ICC Staff Ex. 2.0)

William D. Marr, a Water Engineer in the Water Department of the Commission's Financial Analysis Division, said the Company has demonstrated that its construction, operation, and maintenance of the proposed water and/or sanitary sewer facilities are necessary to provide adequate, reliable, and efficient water and/or sanitary sewer service to the customers to be located within the proposed service areas. (ICC Staff Exhibit 1.0 at 4)

Mr. Marr also testified that the Company's water and/or sanitary sewer systems have sufficient capacity to meet the estimated demand for the developments identified within the proposed areas without the need to construct additional water and/or sanitary sewer facilities. (ICC Staff Ex. 1.0 at 12-13) According to Mr. Marr, the Company's proposed construction of facilities constitutes the least-cost means of satisfying the service needs of its customers. He said the areas for which Illinois-American is requesting Certificates are either adjacent to or completely surrounded by Illinois-American's current certificated water/sewer service areas.

Mr. Marr further stated that no other water and/or sanitary sewer utility or municipal corporation presently serves the proposed certificated areas, or is willing and able to provide water and/or sanitary sewer utility service to the proposed parcels. In his view, the most cost efficient method for serving customers is for an existing utility in the area to

extend its mains rather than to have a new entity come into the area to establish service. Mr. Marr suggests that through this process, duplication of facilities and unnecessary costs would be avoided. (ICC Staff Exhibit 1.0 at 13)

Mr. Marr stated his belief that Illinois-American is capable of efficiently managing and supervising the construction necessary to serve all the proposed parcels. Mr. Marr indicated that Illinois-American has many years of experience managing and supervising this type of construction. (ICC Staff Ex. 1.0 at 14)

Mr. Marr also asserted that the proposed construction of water main extensions will be consistent with the Company's longstanding practices and tariffs and in accordance with 83 Ill. Adm. Code 600.370. He also said the sanitary sewer main extensions will be constructed according to the stipulation in Docket No. 01-0645. (ICC Staff Ex. 1.0 at 14)

Mr. Marr also testified that Illinois-American had provided adequate justification for installing water and sanitary sewer main extensions that are larger than 8-inch in diameter in certain developments in order to meet required domestic and fire protection flow demands. He suggested such water and sanitary sewer main extensions are required to meet customer service requirements and comply with good engineering principles, in accordance with 83 Ill. Adm. Code 600.370 and the stipulation in Docket No. 01-0645. (ICC Staff Ex. 1.0 at 14-15)

In Mr. Marr's opinion, Illinois-American has met the requirements of Sections 8-406(b)(1) and (2) of the Act. He said the construction, operation, and maintenance by the Company of the water and/or sanitary sewer facilities are necessary and appropriate to serve the areas for which Certificates are requested. He further stated that the Company's provision of water and/or sanitary sewer service to the public in the proposed parcels will promote the public convenience and is necessary thereto, and the interest of the public will be served thereby. (ICC Staff Ex. 1.0 at 15-16)

Mr. Marr also recommended that the Commission approve the Company's proposed certificated service areas described in IAWC Exhibit BK-2.1. (ICC Staff Ex. 1.0 at 26)

As noted above, Illinois-American's proposal is that the Rates, Rules, Regulations, and Conditions of Service contained in the currently effective tariffs for the Chicago-Metro Division will be applicable to customers located in the areas for which certification is sought. Mr. Marr does not take exception to the Company's proposal in this regard. (ICC Staff Ex 1.0 at 26 - 28)

Commission Analysis and Conclusions

In this proceeding, Illinois-American seeks Certificates of Public Convenience and Necessity to provide water and/or sanitary sewer service to various additional areas in Cook, Kendall, DuPage and Will Counties, Illinois, pursuant to Section 8-406 of the Act.

Each of the proposed areas of certification is contiguous to or surrounded by, and will be added to, one of eight existing water and/or sewer service areas. The eight existing service areas are identified as the Chicago Suburban, Southwest Suburban, Liberty Ridge, Valley Marina, Santa Fe, Valley View, West Suburban and DuPage districts.

The Commission determines that Illinois-American has demonstrated a need for water and sewer services in the proposed areas of certification. The Commission also finds that the proposed construction in and service to the proposed areas is necessary to provide adequate, reliable, and efficient service to customers in the areas and is the least-cost means of satisfying the service needs of its customers within the meaning of Section 8-406(b) of the Act. The Commission also concludes that Illinois-American is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision of the construction.

Based on the record, the Commission finds that the Company's existing water and/or sanitary sewer systems have sufficient capacity to meet the estimated demand in the proposed areas without the need to construct additional water and/or sanitary sewer facilities other than the extension of water and sewer lines and related work.

In constructing the new water main extensions, the Commission finds that Illinois-American shall comply with 83 Ill. Adm. Code 600.370 as well as the provisions of its currently effective tariffs. With respect to the extension of sanitary sewer mains, the Commission finds that such construction shall be performed in accordance with the stipulation previously approved in Docket No. 01-0645. Additionally, the record supports a finding that in those circumstances outlined by Mr. Marr, Illinois-American should be authorized to install water and sanitary sewer mains larger than eight inches in diameter to meet customer service requirements and comply with sound engineering principles.

The Commission also concludes that, as required by Section 8-406(b)(3) of the Act, Illinois-American has demonstrated that it is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

With respect to rates and other tariffs for the Proposed Areas, Illinois-American proposes that the Rates, Rules, Regulations, and Conditions of Service contained in the currently effective tariffs for the Chicago-Metro Division will be applicable to customers located in the areas for which certification is sought. Further, the Company is not seeking to implement any new surcharges or to revise any existing surcharges.

The Commission concludes that this proposal is reasonable and it is hereby approved. As explained above, IAWC performed an analysis intended to show the incremental revenue requirement associated with each of the proposed areas of certification. In these analyses, estimated revenues from new customers, net of refunds, were compared to costs incurred in providing service, including expenses and return on

rate base. (IAWC Ex. EJG 1.2) The rates assumed are those currently in effect in the Chicago-Metro Division.

These analyses purport to show that the estimated revenues will be sufficient to cover the costs of the serving the new areas. This consideration is meaningful, because if revenues in a newly certificated area fail to recover the revenue requirement associated with that new area, existing customers may be adversely affected by the risk of future incrementally higher rates attributable to that revenue shortfall.

Findings and Ordering Paragraphs

The Commission, having considered the entire record herein, is of the opinion and finds that:

- (1) Illinois-American provides water and sanitary sewer public utility services to the public in certain portions of the State of Illinois and is a public utility within the meaning of the Act, 220 ILCS 5/3-105;
- (2) the Commission has jurisdiction over Illinois-American and of the subject matter of this proceeding;
- (3) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and law;
- (4) for the reasons indicated above, issuance of Certificates of Public Convenience and Necessity for the areas certificated below will promote the public convenience and is necessary thereto, as will the construction of water and sanitary sewer facilities described above, and the requirements of Section 8-406(b) of the Act have been met with respect thereto;
- (5) the Rates, Rules, Regulations, and Conditions of Service tariffs presently applicable in Illinois-American's Chicago-Metro Division for water and sewer services should be applicable in the new areas of certification herein;
- (6) Certificates of Public Convenience and Necessity should be granted to Illinois-American as described below, subject to the conditions set forth herein;
- (7) as conditions of the certificates granted herein, Illinois-American shall comply with all determinations contained above.

IT IS THEREFORE ORDERED that pursuant to Section 8-406 of the Act, Illinois-American Water Company is hereby granted Certificates of Public Convenience and Necessity for the construction, operation and maintenance of public utility water systems and sanitary sewage collection and disposal systems in the areas of Cook, Kendall,

DuPage, and Will Counties, Illinois as are described below, and the provision of public utility water service in connection therewith, and these Certificates shall read as follows:

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

IT IS HEREBY CERTIFIED that the public convenience and necessity require the construction, ownership, operation and maintenance of public water supply and distribution systems, and the provision of public water services to the public in connection therewith, in the areas described in IAWC Exhibit BK 2.1 and identified in IAWC Exhibit BK 2.2, both filed December 2, 2004, as follows: Parcels A and B in the Chicago Suburban District service area, Parcel A in the Liberty Ridge District service area, and Parcel A and Bolingbrook Water Inclusive Area in the West Suburban District service area.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

IT IS HEREBY CERTIFIED that the public convenience and necessity require the construction, ownership, operation and maintenance of sanitary sewer collection and treatment systems, and the provision of sanitary sewer services to the public in connection therewith, in the areas described in IAWC Exhibit BK 2.1 and identified in IAWC Exhibit BK 2.2, both filed December 2, 2004, as follows: Parcels A, B, C, D, E, F, G and Homer Glen Area in the Southwest Suburban District service area, and Parcel B in the Valley View District service area.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

IT IS HEREBY CERTIFIED that the public convenience and necessity require the construction, ownership, operation and maintenance of public water supply and distribution systems and sanitary sewer collection and treatment systems, and the provision of public water and sanitary sewer services to the public in connection therewith, in the areas described in IAWC Exhibit BK 2.1 and identified in IAWC Exhibit BK 2.2, both filed December 2, 2004, as follows: Parcel C in the Chicago Suburban District service area, Parcel H in the Southwest Suburban District service area, Parcel A in the Valley Marina District service area, Parcels A and B in the Santa Fe District service area, Parcels A and C in the Valley View District service area, Parcels B, C, D, E, F and Bolingbrook Water and Sanitary Sewer Inclusive Area in the West Suburban District service area, and Parcel A in the DuPage District service area.

IT IS FURTHER ORDERED that the areas certificated herein shall be included in Illinois-American's Chicago-Metro Division and the customers therein shall pay such rates and charges as are applicable to that Division.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Illinois Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 23rd day of March, 2005.

(SIGNED) EDWARD C. HURLEY

Chairman